THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA BRYSON CITY DIVISION

CIVIL CASE NO. 2:11cv6

TERESSA J. LANE,)
Plaintiff,)
vs.) <u>ORDER</u>
MICHAEL J. ASTRUE, Commissioner of Social Security,)))
Defendant.)))

THIS MATTER is before the Court on the parties' cross Motions for Summary Judgment [Docs. 7 and 11], and the Magistrate Judge's Memorandum and Recommendation [Doc. 13] regarding the disposition of those motions.

Pursuant to 28 U.S.C. § 636(b) and a specific Order of referral of the District Court, the Honorable Dennis L. Howell, United States Magistrate Judge, was designated to consider these pending motions in the above-captioned action and to submit to this Court a recommendation for the disposition of these motions.

On March 9, 2012, the Magistrate Judge filed a Memorandum and Recommendation [Doc. 13] in this case containing proposed conclusions of

law in support of a recommendation regarding the motions [Docs. 7 and 11]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has expired, and no written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation [Doc. 13], the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that the Plaintiff's Motion for Summary Judgment be granted in part and denied in part and that this action be remanded for further proceedings.

IT IS, THEREFORE, ORDERED that the Magistrate Judge's Memorandum and Recommendation [Doc. 13] is ACCEPTED, and the Plaintiff's Motion for Summary Judgment [Doc. 7] is GRANTED to the extent that the Plaintiff seeks reversal of the Commissioner's decision denying her disability benefits. To any extent that the Plaintiff seeks an immediate award of benefits, the Plaintiff's Motion [Doc. 7] is DENIED.

Pursuant to the power of this Court to enter a judgment affirming, modifying or reversing the decision of the Commissioner under Sentence Four

of 42 U.S.C. § 405(g), **IT IS FURTHER ORDERED** that the decision of the Commissioner is **REVERSED**, and this case is hereby **REMANDED** to the Commissioner for further administrative action consistent herewith.

IT IS FURTHER ORDERED that the Defendant's Motion for Summary

Judgment [Doc. 11] is DENIED.

IT IS SO ORDERED.

Signed: March 27, 2012

Martin Reidinger

United States District Judge